

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)	
)	Case No. 1:04CR00070
v.)	
)	OPINION AND ORDER
JASON JUSTUS,)	
)	By: James P. Jones
Defendant.)	Chief United States District Judge

On June 2, 2005, the court sentenced the defendant in connection with an oxycodone conviction. In so doing, the court considered the federal sentencing guidelines as required under 18 U.S.C. § 3553(a).

Pursuant to its statutory authority, the United States Sentencing Commission has amended the federal advisory sentencing guidelines applicable to criminal cases involving cocaine base or crack cocaine, effective November 1, 2007. On December 11, 2007, the Sentencing Commission further decided that, effective March 3, 2008, the amended guideline provisions will apply retroactively to offenders who were sentenced under prior versions of the sentencing guidelines, and who are still incarcerated. Stated generally, the practical effect of the Sentencing Commission's actions is that certain federal defendants convicted of offenses involving crack cocaine may be eligible for a reduction in their current sentences, pursuant to the provisions of 18 U.S.C. § 3582(c)(2).

On March 13, 2008, the court received a Motion to Reduce Sentence pursuant to § 3582(c)(2) from the defendant.

Having considered the defendant's Motion to Reduce Sentence, the court concludes that the motion must be denied. This is because the defendant pled guilty to conspiracy to distribute oxycodone, in violation of 21 U.S.C. §§ 841(a)(1) and 846. The defendant was not charged with any violation involving crack cocaine, and the defendant's recommended guideline range was not calculated with reference to a quantity of crack cocaine. Consequently, the recent amendments to the guidelines have no impact on the defendant's sentence.

Accordingly, it is **ORDERED** that the defendant's Motion to Reduce Sentence (Doc. No. 254) is **DENIED**.

The Clerk will send copies of this order to the defendant at his place of confinement and to the United States Attorney's Office.

ENTER: June 11, 2008

/s/ JAMES P. JONES
Chief United States District Judge